

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ARISE FOR SOCIAL JUSTICE; LOISTE?
NEW ENGLAND STATE-AREA
CONFERENCE OF THE NAACP; REV.
TALBERT W. SWAN, II; NORMAN W.
OLIVER; DARLENE ANDERSON;
GUMERSINDO GOMEZ; FRANK BUNTIN;
RAFAEL RODRIQUEZ; and DIANA NURSE,

Plaintiffs,

v.

CITY OF SPRINGFIELD and SPRINGFIELD
ELECTION COMMISSION,

Defendants.

Civil Action No. 05-30080 MAP

AFFIDAVIT OF MASSACHUSETTS STATE REPRESENTATIVE BENJAMIN SWAN

I, Representative Benjamin Swan, hereby certify as follows:

1) I serve in the Massachusetts House of Representatives as the State Representative for the Eleventh Hampden District. I am an African American citizen of the United States and I am registered to vote in Springfield, Massachusetts. I have personal knowledge of the facts stated in this Affidavit.

2) I have lived in Springfield for the last eighteen years. I moved to Springfield for the first time in 1950, and I lived there on-and-off until I moved there permanently in approximately 1986.

3) I became involved with the National Association for the Advancement of Colored People ("NAACP") in the late 1950s. I helped organize a Springfield Chapter of the Congress of Racial Equality ("CORE") in 1963. In the mid-1960s, I served as Chair of the Springfield

Chapter of CORE. More recently, from 1991 to 1995, I served as Vice President and then as President of the Springfield Chapter of the NAACP.

4) In the 1950s, there was widespread and open racial discrimination in Springfield. For example, African American families were prevented by white residents from buying and renting homes in certain neighborhoods. African Americans were denied access to certain employment opportunities on the basis of their race. The police enforced the law in a discriminatory manner and engaged in racially-motivated brutality against African Americans.

5) During the 1960s, the NAACP worked to eliminate racial discrimination in lending, insurance, housing, public accommodation, education, and other areas. The NAACP played a significant role in the debate over busing in Springfield.

6) During the 1960s, School Committee campaigns were dominated by the debate over busing to achieve racial equality in the schools. Candidates who supported busing were not elected to the School Committee. This affected elections for City Council as well during this period, because the School Committee was seen by many Springfield politicians as a "stepping stone" to the City Council.

7) During the 1960s, I considered running for a seat on the City Council. However, I decided not to run because I believed that Springfield's **at-large** election system made it virtually impossible for an African American candidate to win a seat on the City Council.

8) The first time I ran for public office was in 1972, when I campaigned for election to the Massachusetts House of Representatives from Springfield. At that time, Massachusetts had multi-member state representative districts.

9) In 1972, I ran in a district that elected two people to the House of Representatives. The district consisted of what were then Wards 3, 4, and 5. Ward 4 was predominantly African American, and Wards 3 and 5 were predominantly white.

10) I ran in 1972 as a Republican and I won the Republican primary. In the general election, I lost by fewer than 400 votes. The two candidates who won were white.

11) I believe that if Springfield had used single-member districts to elect its state representatives in 1972, I would have been elected.

12) Between 1972 and 1974, Massachusetts adopted a legislative districting scheme that used only single-member districts.

13) In 1974, I ran for State Representative in the newly-configured, single-member district. African Americans constituted a majority of the population of that district. I again won the primary, but lost the general election to Raymond Jordan, who is African American.

14) I believe that the use of single-member districts in 1974 made it possible for Raymond Jordan to be elected. I believe that he could not have won in the former multi-member district.

15) In the 1980s, I again considered running for City Council. I again decided not to run because I believed that it was virtually impossible for an African American candidate to win in an at-large election.

16) I know other African American residents of Springfield who have told me that they considered running for either City Council or School Committee, but decided not to run because they believed that an African American candidate is disadvantaged by Springfield's at-large system.

17) Springfield's at-large system for electing the City Council and School Committee makes it more difficult for African American and Latino candidates to win.

18) It is significantly more expensive to run an at-large campaign than a ward-based campaign. It is possible for a candidate to knock on every voter's door in a single ward. It is not feasible for a candidate to knock on every voter's door in the entire city. To win an at-large campaign, a candidate needs to purchase expensive advertisements in the newspaper, on the radio or on television that will reach voters across the city. These expenses make campaigning too expensive for many African American and Latino residents who otherwise might run for office.

19) Around 1989-1990, I served as Staff Coordinator for Springfield's Black-Puerto Rican Coalition, a group of professionals who met approximately once a month to discuss issues affecting the African American and Hispanic communities in Springfield. These issues included the quality of the public schools, drop-out rates, illiteracy, infant mortality, treatment and prevention of substance abuse, housing, employment in city government, and ward representation. I believe that these issues are still important to both the African American and Hispanic communities in Springfield today.

20) In 1991 and 1993, I ran for Mayor. In 1993, there were no other African American candidates. In 1991, there was one other African American candidate who entered the race after I had announced that I would run. When I decided to run in each mayoral race, I knew that my chances of winning were very limited. I ran anyway because I wanted to raise issues that are important to the African American and Hispanic communities of Springfield, such as high school drop-out rates among students of color, competency rates among high school

graduates, infant mortality, and race relations. I believed that these issues would not be adequately addressed by the other candidates. I did not win either election.

21) In 1994, I was elected to represent the Twelfth Hampden District in the House of Representatives. I initially was elected in a special election when the incumbent, Raymond Jordan, resigned. Since then, I have been re-elected six times. In 2001, the Twelfth Hampden District was slightly reconfigured and renamed the Eleventh Hampden District.

22) African Americans form the largest racial group in the Eleventh Hampden District. According to the 2000 Census, the district is approximately 42% Black/African American, 25% Hispanic/Latino, and 29% white.

23) My Hispanic constituents have supported me in my elections.

24) I see continuing evidence of racial discrimination in Springfield to this day.

25) My office regularly receives complaints of racial discrimination in public and private employment and public education. We also receive complaints of police brutality. We refer some of these complaints to the Massachusetts Commission Against Discrimination ("MCAD"). I have served as an advocate for one of my constituents before the MCAD in a case involving racial discrimination in City employment. The allegations in that case were substantiated by the MCAD. I was involved in another constituent case that was settled by Springfield's Superintendent of Schools before it reached the MCAD. I also am aware that a number of complaints referred by my office to the MCAD resulted in favorable decisions for the complainants, particularly with regard to employment in the Springfield construction industry.

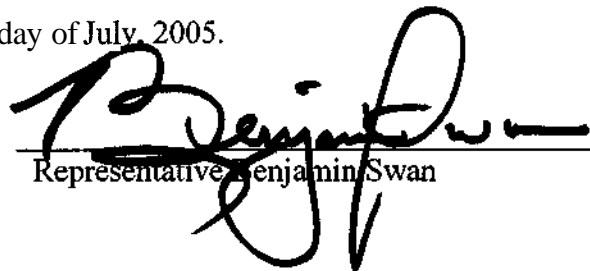
26) I believe that I receive more complaints about city issues than other State Representatives in the Commonwealth because my constituents perceive the Springfield City Council and School Committee to be unresponsive to their needs. My office regularly receives

complaints from my constituents about city services, including police-community relations, police response times, potholes, trash dumping, the assessor's office, water and sewage.

27) I believe that my constituents are more comfortable bringing their complaints to me because I am their most local elected official. Some of my African American constituents may also come to my office first because they feel comfortable interacting with an elected official who is African American.

28) I receive many walk-in visitors at my district office in Springfield. In order to visit members of the City Council and School Committee, my constituents would need to go outside of their neighborhood to downtown Springfield.

Signed under penalties of perjury, this 11 day of July, 2005.


Representative Benjamin Swan

LIBA/1561237.1